

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:		§	ATTORNEY DOCKET NO. MFCP.109834
TIMOTHY P. MCKEE, <i>ET AL.</i>		§	
		§	
SERIAL NO.	10/691,885	§	CONFIRMATION NO.: 8986
		§	
FILING DATE:	OCTOBER 23, 2003	§	GROUP ART UNIT: 2174
		§	
TITLE: SYSTEM AND A METHOD FOR		§	
PRESENTING ITEMS TO A USER		§	
WITH A CONTEXTUAL		§	
PRESENTATION		§	EXAMINER: BORIS M. PESIN

**Via EFS on Oct. 13, 2010**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE  
TO RECEIVE OFFICE ACTION UNDER 37 CFR 1.181**

In response to the Notice of Abandonment mailed October 6, 2010, Applicants respectfully request acceptance of the following petition.

According to MPEP 711.03(c) an Applicant can submit a petition to the Director under 37 CFR 1.181 to withdraw the holding of abandonment if an office action was never received. Under *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971) an allegation that an office action was never received may be considered in a petition, if adequately supported, to withdraw the holding of abandonment. MPEP 711.03(c) I.A. states “The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have

been entered had it been received and docketed must be attached to and referenced in practitioner's statement.”

The application referenced above was filed on October 23, 2003. On June 10, 2010, a Notice of Allowance was mailed. Applicants have no record of any further correspondence received from the USPTO until the Notice of Abandonment, which was mailed on October 6, 2010. While the Notice of Abandonment was issued in response to “the applicant’s failure to timely file a proper reply to the Office letter mailed on 07-22-10,” no such letter was ever received by the Applicants.

A declaration is included with this petition attesting to the fact that the file jacket and docket records have been searched for the USPTO correspondence in question. To support our position, we also submit for your consideration a copy of our internal docket records for this application indicating all written correspondence between our office and the USPTO. This docket record sheet does not include any reference to the Office letter dated July 22, 2010, indicating that this letter was never received by the Applicants.

In light of the forgoing, Applicants respectfully submit that the abandonment of this application should be withdrawn and the last office communication be reissued so the Applicants can respond in a timely manner. In accordance with 37 CFR 1.181 (a), no fee is believed due in connection with this petition.

Respectfully submitted,

***/Robert H. Reckers/***

Robert H. Reckers  
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